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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,437	10/17/2002	Curtis R. Nelson	02N1607	8669

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EXAMINER

LEA EDMONDS, LISA S

ART UNIT PAPER NUMBER

2835

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,437

Applicant(s)

NELSON ET AL.

Examiner

Lisa Lea-Edmonds

Art Unit

2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to because the informal drawings are not of sufficient quality to permit an accrued examination of the claimed invention. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "100" has been used to designate both a system and the PC, reference character "104" has been used to designate both a top faceplate side and the rear end. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "said rigid differentiation plate" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2835

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paterson et al.. With respect to claims 1 and 6, the apparatus of Paterson et al. teaches an industrial PC comprising a top edge and a faceplate (16) having voids therein and being disposed on a first end of a housing (12) of a PC and being substantially planar and a differentiation plate (20a, 20b, 20c) having an exposed first section which is substantially planar and which is parallel to the faceplate (16), and an exposed section which forms an edge of the front end and is substantially orthogonal to the faceplate (16) and having ears (22) removably disposed on the faceplate (16) in a mechanical non-adhesive manner as claimed (see for example figures 1-4 and column 1 line 65 through column 4 line 65). The apparatus of Paterson et al. fails to clearly teach the sole use of different colors to identify the faceplate (16) from the differentiation plate (20a, 20b, 20c) as well as the functional characteristics of the PC as claimed. However, Paterson et al. does in fact teach the use of not only color, but also ornamentation including texture, design, and manufacturer identification logos or trademarks for the differentiation plate (20a, 20b, 20c) to indicate the functional characteristics of the PC (see for example column 1 lines 23-27, column 2 lines 16-25, and column 4 lines 43-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to select only color as a way of identifying the faceplate (16) from the differentiation plate (20a, 20b, 20c) as well as the functional characteristics of the PC as claimed. With respect to the differentiation plate (20a, 20b, 20c) being "L" shaped as claimed in claim 2, it is noted that any shape differentiation plate (20a, 20b, 20c) would accomplish the same purpose. There is no unobviousness in the differentiation plate (20a, 20b, 20c) being rectangular, oval, J-shaped, L-shaped, I-shaped etc. so long as the same function is preformed appropriate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to configure

Art Unit: 2835

the differentiation plate (20a, 20b, 20c) as appropriate to cover at least one of the frame windows (see for example column 4 lines 35-42).

7. Claims 7-14, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paterson et al. as applied to the claims above in view of Varghese et al.. With respect to claims 7-14, 19 and 20, the apparatus of Paterson et al. teaches the an industrial PC comprising a faceplate (16) having voids therein and being disposed on a housing (12) of a PC and a differentiation plate (20a, 20b, 20c) having ears (22) removably disposed on the faceplate (16) in a mechanical non-adhesive manner as claimed (see for example figures 1-4 and column 1 line 65 through column 4 line 65). The apparatus of Paterson et al. fails to clearly teach the sole use of different colors to identify the faceplate (16) from the differentiation plate (20a, 20b, 20c) as well as the functional characteristics of the PC as claimed. However, Paterson et al. does in fact teach the use of not only color, but ornamentation including texture, design, and manufacturer identification logos or trademarks for the differentiation plate (20a, 20b, 20c) to indicate the functional characteristics of the PC (see for example column 1 lines 23-27, column 2 lines 16-25, and column 4 lines 43-54) as set forth above. However, Paterson et al. lacks a teaching of a rack having a plurality of slots as claimed. The apparatus of Varghese et al. is relied upon for it's teaching of a rack (200) having a plurality of slots (202) therein (see for example figure 5B and column 6 lines 57-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the PC of Paterson et al. into the rack of Varghese et al. to provide the user with a multiple array of computers in one central location. With respect to the tool of claim 9, it is to be understood that the examiner of record is interpreting the apparatus of Paterson et al. to include such a tool to be a human hand in so much as Paterson et al. states in column 2 lines 59-62 that the differentiation plate (20a, 20b,

Art Unit: 2835

20c) are to be readily attached to the faceplate (16) by pushing, and disassembled there from by pulling.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-6 and 11-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6490151.

Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art to place the faceplate on a first end of a PC housing and to have the differentiation plate be exposed on a first section and form an edge as claimed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please note the PC's, racks, and/or color coding of Mills et al., Schmitt, Burchard et al., Anderson et al., Prager et al., and Crane, Jr..

Art Unit: 2835

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa Lea-Edmonds whose telephone number is 703-305-0265. The examiner can normally be reached on 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 703-308-4815. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-1782.

Lisa Lea-Edmonds
Examiner
Art Unit 2835

May 12, 2003

A handwritten signature in cursive script that reads "Lisa Lea-Edmonds". The signature is written in black ink and is positioned to the right of the date.